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BEFORE THE ARIZONA CORPORATION

COMMISSIONERS

BOB STUMP - Chairman  
GARY PIERCE  
BRENDA BURNS  
BOB BURNS  
SUSAN BITTER SMITH

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ARIZONA CORPORATION COMMISSION  
DOCKET CONTROL

Arizona Corporation Commission

DOCKETED

AUG - 6 2013

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IN THE MATTER OF THE APPLICATION OF  
SUNRISE WATER CO. FOR A DETERMINATION  
OF THE CURRENT FAIR VALUE OF ITS  
UTILITY PROPERTY AND FOR AN INCREASE  
IN ITS WATER RATES AND CHARGES FOR  
UTILITY SERVICE.

DOCKET NO. W-02069A-08-0406

PROCEDURAL ORDER

BY THE COMMISSION:

On December 23, 2009, in this docket, the Arizona Corporation Commission ("Commission") issued Decision No. 71445 establishing permanent rates for Sunrise Water Co. ("Sunrise"), a privately owned Class B water utility and S corporation providing water utility service in northern Peoria in Maricopa County. In Decision No. 71445, due to Sunrise's S corporation status, the Commission rejected Sunrise's argument for inclusion of income tax expenses in operating expenses.

On February 22, 2013, in Docket No. W-00000C-06-0149, the Commission issued Decision No. 73739, in which the Commission adopted a Revised Policy Statement reversing the Commission's position on treatment of income tax expense for tax pass-through entities, including S corporations. In the Revised Policy Statement, the Commission established a method for determining allowable tax expense.

On June 14, 2013, in this docket, Sunrise filed a Motion to Amend Decision No. 71445 Pursuant to A.R.S. § 40-252 ("Request"), requesting that the Commission amend Decision No. 71445 to allow Sunrise to recover income-tax expense as part of its cost of service. With its Request, Sunrise included schedules setting forth its calculations to determine income tax expense, a revised revenue requirement, and corresponding revised rates. Sunrise's revised rate schedule would increase each monthly minimum and commodity rate by 2.18 percent to 2.40 percent.

...

1 At its Staff Meeting on June 27, 2013, the Commission voted to reopen Decision No. 71445  
 2 pursuant to A.R.S. § 40-252, but without limiting the scope of the A.R.S. § 40-252 proceeding to the  
 3 income tax issue raised in Sunrise's Request. Due to the time lapse since Decision No. 71445, the  
 4 Commission's Utilities Division ("Staff") raised the possibility that Sunrise could be over-recovering  
 5 rate case expense and suggested that customer notice may need to be provided. The Commission did  
 6 not expressly state how the A.R.S. § 40-252 proceeding should be conducted.

7 On June 28, 2013, a Procedural Order was issued scheduling a procedural conference to be  
 8 held on August 5, 2013, to discuss establishment of the process and schedule to be followed in this  
 9 matter.

10 On August 5, 2013, the procedural conference was held as scheduled at the Commission's  
 11 offices in Phoenix, Arizona, with Sunrise and Staff appearing through counsel. The parties generally  
 12 agreed that it would be appropriate for notice to be provided to Sunrise's customers, either through a  
 13 billing insert or direct mail; that intervention should be permitted; that a hearing probably would not  
 14 need to be held;<sup>1</sup> that a Staff Report should be issued approximately three weeks after Sunrise files  
 15 proof of notice; that Sunrise should file its response to the Staff Report approximately two weeks  
 16 later; and that a Recommended Order would then issue from the Hearing Division.

17 It is now appropriate to establish the procedural schedule for this matter.

18 IT IS THEREFORE ORDERED that Sunrise shall, by August 20, 2013, provide notice of  
 19 this matter, in the following form and style, with the heading in no less than 14-point bold type and  
 20 the body in no less than 10-point regular type, by sending the notice to each of Sunrise's customers  
 21 by **First Class U.S. Mail**, either as a billing insert or separate mailing, and if feasible by **posting** a  
 22 notice on Sunrise's website:

23 **PUBLIC NOTICE OF SUNRISE WATER CO.'S REQUEST TO RECOVER**  
 24 **INCOME TAX EXPENSE AS OPERATING EXPENSE**  
 25 **(DOCKET NO. W-02069A-08-0406)**

26 **Summary**

27 On December 23, 2009, in this docket, the Arizona Corporation Commission  
 ("Commission") issued Decision No. 71445 establishing permanent rates for Sunrise

28 <sup>1</sup> Staff suggested that a hearing might need to be held if an intervenor were to request one, or if Sunrise were to disagree with the Staff Report.

Water Co. ("Sunrise"). In that Decision, due to Sunrise's status as an S corporation, the Commission rejected Sunrise's argument to allow recovery of income tax expense as an operating expense.

On February 22, 2013, in Docket No. W-00000C-06-0149, the Commission issued Decision No. 73739, adopting a Revised Policy Statement reversing the Commission's position on treatment of income tax expense for tax pass-through entities, including S corporations. In the Revised Policy Statement, the Commission established a method for determining allowable income tax expense.

On June 14, 2013, in this docket, Sunrise filed a Motion to Amend Decision No. 71445 Pursuant to A.R.S. § 40-252 ("Request"), requesting that the Commission amend Decision No. 71445 to allow Sunrise to recover income-tax expense as an operating expense. With its Request, Sunrise included schedules setting forth its income tax expense calculations, a revised revenue requirement, and corresponding revised rates.

At its Staff Meeting on June 27, 2013, the Commission voted to reopen Decision No. 71445 pursuant to A.R.S. § 40-252, but without limiting the scope of the A.R.S. § 40-252 proceeding to the income tax issue raised in Sunrise's Request.

Sunrise has proposed that both the monthly base charges and the volume charges for water usage be increased to generate the additional revenue requested, with the proposed increases to base charges ranging from \$0.37 to \$3.99 based upon meter size and the proposed increases to volumetric charges ranging from \$0.04 to \$0.07 per thousand gallons based upon tier of consumption.

For a residential customer served by a 3/4" or a 1" meter, approval of Sunrise's Request would have the following impact on a monthly bill with average usage:

	Usage (Gallons)	Current Bill	Proposed Bill	Dollar Increase	Percentage Increase
<b>3/4" Meter Residential</b>	17,782	\$61.56	\$62.97	\$1.40	2.28%
<b>1" Meter Residential</b>	26,737	\$95.17	\$97.40	\$2.22	2.34%

The Commission's Utilities Division ("Staff") is in the process of analyzing Sunrise's Request and has not yet made any recommendations regarding the Request. The Commission will determine the appropriate relief to be granted based on the evidence presented by the parties to this matter. The Commission may make its decision based upon the parties' filings in this case, without holding an evidentiary hearing.

**THE COMMISSION IS NOT BOUND BY THE PROPOSALS MADE BY ANY PARTY, INCLUDING STAFF. THE COMMISSION MAY APPROVE OR DISAPPROVE SUNRISE'S REQUEST OR MAY APPROVE THE REQUEST WITH MODIFICATIONS. THE COMMISSION'S DECISION MAY RESULT IN RATES THAT DIFFER FROM AND MAY BE HIGHER OR LOWER THAN THE RATES REQUESTED BY SUNRISE OR RECOMMENDED BY ANY OTHER PARTY.**

**How You Can View the Parties' Filings**

Copies of Sunrise's Request are available from Sunrise [COMPANY INSERT HOW AND WHERE AVAILABLE] and at the Commission's Docket Control Center at 1200 West Washington, Phoenix, Arizona, for public inspection during regular

business hours, and on the Internet via the Commission's website ([www.azcc.gov](http://www.azcc.gov)) using the e-Docket function, located at the bottom of the webpage.

### **How Interested Persons May Participate**

An interested person may participate in this matter by (1) providing written or oral public comment, or (2) filing for intervention and becoming a formal party to the proceeding. An interested person may file written public comments regarding Sunrise's Request at any time. Written public comments should refer to **Docket No. W-02069A-08-0406** and may be sent to the Commission, as follows:

Mail: Arizona Corporation Commission, Consumer Services Section, 1200 West Washington Street, Phoenix, AZ 85007.

E-mail: [mailmaster@azcc.gov](mailto:mailmaster@azcc.gov)

An optional public comment form is available on the Commission's website ([www.azcc.gov](http://www.azcc.gov)), by clicking on "Public Comment." Anyone requiring assistance may contact the Consumer Services Section at 1-800-222-7000.

Persons who do not intervene will receive no further notice of the proceedings in this docket. **However, all documents filed in this docket are available online** (usually within 24 hours after docketing) through the Commission's website ([www.azcc.gov](http://www.azcc.gov)) using the e-Docket function, located at the bottom of the website homepage. RSS feeds are also available through e-Docket.

### **About Intervention**

Any person or entity entitled by law to intervene and having a direct and substantial interest in the matter will be permitted to intervene. The granting of intervention entitles a person to participate as a party by presenting evidence. **Anyone wishing to intervene must file an original and 13 copies of a written motion to intervene with the Commission's Docket Control Center no later than September 9, 2013, and must send a copy of the motion to Sunrise or its counsel and to all parties of record.** Contact information for Sunrise and the other parties of record may be obtained using the Commission's e-Docket function and Docket No. W-02069A-08-0406.

Each motion to intervene must contain the following:

1. Name, address, and telephone number of the person requesting intervention, and the name, address, and telephone number of any person upon whom service of documents is to be made, if not the same person;
2. A short statement of the prospective intervenor's interest in the proceeding (e.g., a customer of Sunrise, a shareholder of Sunrise, etc.); and
3. A statement certifying that a copy of the motion to intervene has been mailed to Sunrise or its counsel and to all parties of record in the case.

The granting of motions to intervene is governed by A.A.C. R14-3-105, except that all motions to intervene must be filed on or before September 9, 2013.

A sample intervention request form is available at <http://www.azcc.gov/divisions/utilities/forms/interven.pdf>.

1 All parties must comply with Arizona Supreme Court Rules 31 and 38 and A.R.S. §  
2 40-243 with respect to the practice of law and admission *pro hac vice*.

**ADA/Equal Access Information**

3 The Commission does not discriminate on the basis of disability in admission to its  
4 public meetings. Persons with a disability may request a reasonable accommodation  
5 such as a sign language interpreter, as well as request this document in an alternative  
6 format, by contacting the ADA Coordinator, Shaylin Bernal, E-mail  
7 SAbernal@azcc.gov, voice phone number 602-542-3931. Requests should be made as  
8 early as possible to allow time to arrange the accommodation.

9 IT IS FURTHER ORDERED that **Sunrise shall file certification of notice** as soon as  
10 possible after notice has been completed, but **no later than August 30, 2013**.

11 IT IS FURTHER ORDERED that notice shall be deemed complete upon mailing/posting of  
12 same, notwithstanding the failure of an individual customer to read or receive the notice.

13 IT IS FURTHER ORDERED that Staff shall file its **Staff Report** for this matter on or before  
14 **September 16, 2013**.

15 IT IS FURTHER ORDERED that any **intervenor** shall make a filing describing in detail the  
16 intervenor's position regarding Sunrise's Request, and including any documentation in support of the  
17 intervenor's position, on or before **September 16, 2013**.

18 IT IS FURTHER ORDERED that **Sunrise** shall file its **response** to the Staff Report and any  
19 intervenor filing on or before **September 30, 2013**.

20 IT IS FURTHER ORDERED that any motion, other than a Motion to Intervene, that is filed  
21 in this matter and that is not ruled upon within 20 calendar days of the filing date of the motion shall  
22 be deemed denied.

23 IT IS FURTHER ORDERED that any response to a motion shall be filed within five calendar  
24 days of the filing date of the motion.

25 IT IS FURTHER ORDERED that any reply shall be filed within five calendar days of the  
26 filing date of the response.

27 IT IS FURTHER ORDERED that all parties must comply with Arizona Supreme Court Rules  
28 31 and 38 and A.R.S. § 40-243 with respect to the practice of law and admission *pro hac vice*.

IT IS FURTHER ORDERED that withdrawal of representation must be made in compliance  
with A.A.C. R14-3-104(E) and Rule 1.16 of the Rules of Professional Conduct (under Arizona  
Supreme Court Rule 42). Representation before the Commission includes appearances at all hearings

1 and procedural conferences, as well as all Open Meetings for which the matter is scheduled for  
2 discussion, unless counsel has previously been granted permission to withdraw by the Administrative  
3 Law Judge or the Commission.

4 IT IS FURTHER ORDERED that the Ex Parte Rule (A.A.C. R14-3-113 - Unauthorized  
5 Communications) applies to this proceeding and shall remain in effect until the Commission's  
6 Decision in this matter is final and non-appealable.

7 IT IS FURTHER ORDERED that the time periods specified herein shall not be extended  
8 pursuant to Rule 6(a) or (e) of the Rules of Civil Procedure.

9 IT IS FURTHER ORDERED that the Administrative Law Judge may rescind, alter, amend,  
10 or waive any portion of this Procedural Order either by subsequent Procedural Order or by ruling at  
11 hearing.

12 DATED this 6<sup>th</sup> day of August, 2013.

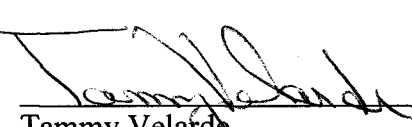
13  
14   
15 SARAH N. HARPRING  
ADMINISTRATIVE LAW JUDGE

16 Copies of the foregoing mailed/delivered  
this 6<sup>th</sup> day of August, 2013, to:

17 Craig A. Marks  
18 CRAIG A. MARKS, PLC  
19 10645 North Tatum Boulevard, Suite 200-676  
Phoenix, AZ 85028  
Attorney for Sunrise Water Co.

20 Janice Alward, Chief Counsel, Legal Division  
21 ARIZONA CORPORATION COMMISSION  
22 1200 West Washington Street  
Phoenix, AZ 85007-2927

23 Steven Olea, Director, Utilities Division  
24 ARIZONA CORPORATION COMMISSION  
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26  
27 By:   
28 Tammy Velarde  
Assistant to Sarah N. Harpring